

STATE OF TENNESSEE

Office of the Attorney General



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REGULATORY AUTH.
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OFFICE OF THE
EXECUTIVE SECRETARY
MICHAEL E. MOORE
SOLICITOR GENERAL

CORDELL HULL AND JOHN SEVIER
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491
FACSIMILE 615-741 2009

July 17, 2002

Chairman Sara Kyle
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

**RE: IN RE: UNITED CITIES GAS COMPANY, a Division of ATMOS ENERGY
CORPORATION INCENTIVE PLAN ACCOUNT (IPA) AUDIT
Docket No.: 01-00704**

Dear Chairman Kyle:

Enclosed is an original and thirteen copies of a Motion for Partial Summary Judgment, Memorandum in Support of Motion for Partial Summary Judgment and Affidavit of Stephen N. Brown, Ph.D. We request that these documents be filed with the TRA in this docket. Additionally, all parties of record have been served copies of these documents. If you have any questions, kindly contact me at (615) 532-3382. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Shilina B. Chatterjee".

Shilina B. Chatterjee
Assistant Attorney General

Enclosures

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**UNITED CITIES GAS COMPANY, a
Division of ATMOS ENERGY
CORPORATION INCENTIVE PLAN
ACCOUNT (IPA) AUDIT**

) **DOCKET NO. 01-00704**
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**MOTION FOR PARTIAL SUMMARY JUDGMENT BY THE CONSUMER
ADVOCATE & PROTECTION DIVISION OF THE OFFICE OF THE
ATTORNEY GENERAL**

Comes Paul G. Summers, the Attorney General & Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "Attorney General") and hereby moves for partial summary judgment in the above-referenced matter in favor of Tennessee consumers on the issue concerning inclusion in its performance based rate making mechanism ("PBR") of the savings resulting from the negotiated transportation discounted contracts is inconsistent with the Authority's Final Order of Phase I in Docket No. 97-01364 ("Final Order") that was issued on August 16, 1999. There is no dispute of material fact and therefore, partial summary judgment in favor of Tennessee consumers should be granted.

The Attorney General will show that:

1. United Cities Gas Company's ("UCG") inclusion in its performance based rate making mechanism ("PBR") of the savings resulting from the negotiated transportation discounted contracts is inconsistent with their Final Order. UCG should not be allowed to

supplement the current formulas with additional calculations because it would not be consistent with the Authority's Final Order on Phase II in Docket No. 97-01364. Therefore, UCG's claim fails as a matter of law.

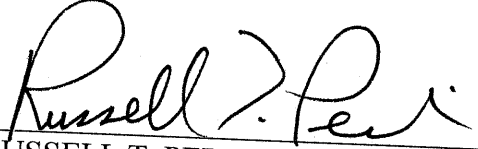
2. UCG cannot include the negotiated transportation contracts in the PBR because it is not consistent with the tariff filed by UCG.

3. The calculations made by UCG do not conform with UCG's incentive plan, therefore.


CONCLUSION

Based on the foregoing, the Attorney General respectfully requests that the TRA dismiss UCGs' objections concerning transportation costs and grant partial summary judgment in favor of Tennessee consumers in this matter.

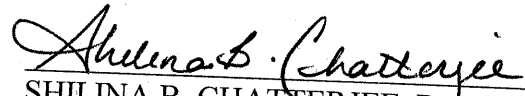
RESPECTFULLY SUBMITTED,



RUSSELL T. PERKINS, B.P.R. #10282
Deputy Attorney General



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Dated: July 17, 2002

CERTIFICATE OF SERVICE

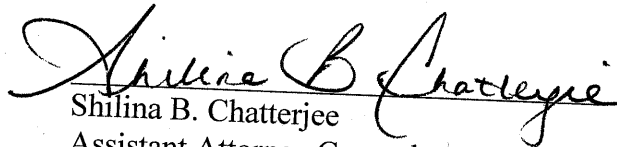
I hereby certify that a true and correct copy of the foregoing was served via facsimile and/or hand delivery on July 17, 2002.

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